

# **DRAFT**

## **RULES AND REGULATIONS PERTAINING TO THE PROVISION OF EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS WITH DISABILITIES AND THEIR FAMILIES**

(R-23-13-EIS)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF HUMAN SERVICES  
May 2005

### ***TABLE OF CONTENTS***

Section 1.0: Purpose of the Early Intervention Program
Section 2.0: Definitions
Section 3.0: Lead Agency
Section 4.0: Interagency Coordinating Council (ICC)
Section 5.0 Certification Requirements
Section 6.0 Eligible Population
Section 7.0 Central Directory of Services
Section 8.0 Comprehensive Child Find System
Section 9.0 Evaluation and Assessment Procedures
Section 10.0: Individualized Family Service Plan (IFSP)
Section 11.0: Development, Review and Evaluation of IFSP
Section 12.0: Transition of Children
Section 13.0: Comprehensive System of Personnel Development
Section 14.0: Procedural Safeguards
Section 15.0: Resolving Complaints
Section 16.0: Severability

## **1.0 Purpose of the Early Intervention Program**

1.1 The purpose of the Early Intervention (EI) Program is to provide comprehensive, coordinated, community based services which respond to the identified needs of eligible infants, toddlers and their families.

1.2 Eligible children and families must have equal access to comprehensive early intervention services, as defined in these regulations, irrespective of geographic location. These services must be fully compliant with all provisions of the regulations.

Early intervention services must be made available to all eligible children irrespective of gender, race, ethnicity, religious beliefs, cultural orientation, citizenship, economic status, and educational or medical diagnosis.

## **2.0 Definitions**

Wherever used in these rules and regulations, the following terms shall be construed as follows:

2.1 "**Act**" means Chapter 23-13 of the RI General Laws, as amended.

2.2 "**Assessment**" means ongoing procedures used by qualified personnel throughout the child's eligibility period to identify the child's and family's unique strengths and needs, and the nature and extent of Early Intervention Services (EIS) needed by child and family.

2.3 "**Children**" means infants and toddlers from birth through age two (2), who need early intervention services

2.4 "**Council**" means the state Interagency Coordinating Council.

2.5 "**Days**" means calendar days.

2.6 "**Department**" means the Rhode Island Department of Human Services.

2.7 "**Destruction**" means physical destruction or removal of personal identification from recorded information.

2.8 "**Developmental delay**" refers to significant delay in the developmental areas of cognition, communication development, and physical development, including vision and hearing, social or emotional development, and/or adaptive behavior.

2.9 "**Director**" means the Director of the Rhode Island Department of Human Services.

2.10 "**Early Intervention System**" means the total effort in the state that is directed at meeting the needs of eligible children and families.

2.11 "**Early Intervention service provider**" means a not-for-profit organization, certified by the Department, that has been exempted from taxation pursuant to Internal Revenue Code Section 501(C)(3) [26 U.S.C. § 501(c)(3)] formed for some charitable or benevolent purpose and which delivers early intervention services as defined herein.

2.12 "**Early Intervention Services**" (here and after referred to as "EIS") means services that are designed to meet the unique developmental needs of the eligible child and the needs of the family related to enhancing the child's development.

"**Assistive technology device**" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, used to increase, maintain, or improve the functional capabilities of children with disabilities.

**"Assistive technology service"** means a service that directly assists a child with disabilities in the selection, acquisition or use of an assistive technology device, and includes:

- Evaluation of a child's needs, including a functional evaluation of the child in the child's customary environment
- Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities
- Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices
- Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitative plans and programs
- Training and technical assistance for a child with disabilities or, if appropriate the child's family
- Training and technical assistance for professionals (including individual providers of EI services) or other individuals who provide services to or are substantially involved in major life functions of individuals with disabilities

**"Audiology"** includes:

- Identification of children with audiological impairment using criteria and appropriate audiologic screening techniques;
- Determination of the range, nature, and degree of hearing loss and communication functions by use of audiological evaluation procedures;
- Referral for medical and other services necessary for habilitation or rehabilitation of children with auditory impairments;
- Provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services;
- Provision of services for prevention of hearing loss; and
- Determination of the child's need for individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating effectiveness of those devices.

**"Family training" "counseling" and "home visits"** means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to

assist the family of an eligible child in understanding the special needs of the child and enhancing the child's development.

**"Health Services"** means services necessary to enable a child to benefit from other EI services during the time the child is receiving the other EI services. The term includes such services as clean, intermittent catheterization, tracheotomy care, tube feeding, the changing of dressings or colostomy collection bags and other health services; and consultation by physicians with other service providers concerning the special HEALTH care needs of eligible children that will need to be addressed in the course of providing other EI services. The term does not include services that are:

- Surgical in nature (e.g., cleft palate repair, surgery for club foot or the shunting of hydrocephalus); or purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose).
- Devices necessary to control or treat a medical condition.
- Medical-Health services (such as immunization and regular "well baby care") that are routinely recommended for all children.

**"Medical services only for diagnostic or evaluation purposes"** means services provided by licensed physicians to determine a child's developmental status and need for EI services.

**"Nursing services"** includes:

- Assessment of health status for the purpose of providing nursing care, including identification of patterns of human response to actual or potential health problems
- Provision of nursing care to prevent health problems, restore or improve functioning and promote optimal health and development
- Administration of medications, treatments, and regimens prescribed by a licensed physician

Nursing services are most often accessed through in-home nursing. When such services are provided through in-home nursing, the service coordinator must assist the family in coordinating nursing services with other EI services. This also includes consultation by physicians with other service providers concerning the special health care needs of eligible children that will need to be addressed in the course of providing other EI services

**"Nutrition services"** includes:

- Conducting individual assessments in: nutritional history and dietary intake; anthropometric, biochemical, and clinical variables; feeding skills and feeding problems; and food habits and food preferences
- Developing and monitoring appropriate plans to address nutritional needs of eligible children based on assessment finding
- Making referrals to appropriate community resources to carry out nutrition goals

**"Occupational therapy"** includes services to address functional needs of a child related to: adaptive development, adaptive behavior and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings and include:

- Identification, assessment, and intervention
- Adaptation of the environment and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote acquisition of functional skills
- Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability

**"Physical therapy"** includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include:

- Screening, evaluation, and assessment of infants and toddlers to identify movement dysfunction
- Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems
- Providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems

**"Psychological services"** includes:

- Administering psychological and developmental tests and other assessment procedures
- Interpreting assessment results

- Obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, mental health, and development
- Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs

**"Service coordination services"** means assistance and services provided by a service coordinator to an eligible child and child's family that is in addition to the functions and activities as specified in "service coordination"

**"Service Coordination"** means the activities carried out by a service coordinator to assist and enable a child eligible under Part C and the child's family to receive the rights, procedural safeguards, and services authorized under the State's Early Intervention Program. Service coordination is an active, ongoing process that involves:

- Assisting parents of eligible children in gaining access to the EI services and other services identified in the individualized family service plan
- Coordinating the provision of EI services and other services (such as medical services for other than diagnostic and evaluation purposes) that the child needs or is being provided
- Facilitating the timely delivery of available services
- Continuously seeking the appropriate services and situations necessary to benefit the development of each child being served for the duration of the child's eligibility

Specific service coordination activities include:

- Coordinating the performance of evaluations and assessments
- Facilitating and participating in the development, review, and evaluation of individualized family service plans
- Assisting families in identifying available service providers
- Coordinating and monitoring the delivery of available services
- Informing families of the availability of advocacy services

- Coordinating with medical health provider
- Facilitating the development of a transition plan to preschool services, and/or community services and supports, and/or to exit the EI system, if appropriate

Each eligible child and the child's family must be provided with one service coordinator who is responsible for:

- Coordinating all services across agency lines
- Serving as the single point of contact in helping parents to obtain the services and assistance they need
- Service Coordinators may be employed or assigned in any way permitted under State law as long as it is consistent with Part C requirements.
- Service Coordinators must be persons:
  - Trained and practicing in a profession most immediately relevant to the child's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities), who will be responsible for the implementation of the IFSP and coordination with other agencies and persons
  - Professionals who have demonstrated knowledge and understanding about: eligible infants and toddlers; Part C of the Individual with Disabilities Education Act and the regulations; the nature and scope of services available under the State's Early Intervention Program, the system of payments for those services and other pertinent information
- The State's policy and procedures for implementation of EI services must be designed and implemented to ensure service coordinators are able to carry out the above listed functions and services on an interagency basis

**"Social work services"** includes:

- Making home visits to evaluate a child's living conditions and patterns of parent-child interactions
- Preparing a social or emotional developmental assessment of the child within the family context
- Providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the child and parents

- Working with those problems in a child's and family's living situation (home, community or any center where EI services are provided) that affect the child's maximum utilization of EI services
- Identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from EI services

**"Special instruction"** includes:

- The design of learning environments and activities that promotes the child's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction
- Curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the child's individualized family service plan
- Providing families with information, skills, and support related to enhancing skill development of the child
- Working with the child to enhance the child's development

**"Speech-language pathology"** includes:

- Identification of children with communicative or oropharyngeal disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills
- Referral for medical or other professional services necessary for habilitation or rehabilitation of children with communicative or oropharyngeal disorders and delays in development of communication skills
- Sign language and cued language training
- Provision of services for the habilitation, rehabilitation or prevention of communicative or oropharyngeal disorders and delays in development of communication skills

**"Transportation and related costs"** includes the cost of travel (e.g., mileage, or travel by taxi, common carrier or other means) and other costs (e.g., tolls and parking expenses) necessary to enable an eligible child and the child's family to receive other EI services.

**"Vision services"** means:



- Evaluation and assessment of visual functioning, including diagnosis and appraisal of specific visual disorders, delays, and abilities
- Referral for medical or other professional services necessary for habilitation or rehabilitation of visual functioning disorders, or both
- Communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual motor abilities

2.13 "**Education records**" means the records covered by FERPA (the Family Education Rights and Privacy Act, 34 *Code of Federal Regulations*, Part 99).

2.14 "**Evaluation**" means the procedures used by qualified personnel to determine the child's eligibility.

2.15 "**IFSP**" means the Individualized Family Service Plan defined in section 10.0.

2.16 "**Infants and toddlers with disabilities**" means individuals from birth through age two (2) who need EIS because they:

- Are experiencing developmental delays as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: cognitive development, physical development (including vision and hearing), communication development, social or emotional development, adaptive development
- Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay
- Have multiple established conditions, which singularly or collectively increase the probability of later atypical development and whose current level of functioning is compromised as a result of a combination of these characteristics.

2.17 "**Location of services**" means services are provided in natural environments, to the maximum extent appropriate to the child's needs, as determined by the IFSP team. These include the home and community settings in which infants and toddlers without disabilities participate.

2.18 "**Multidisciplinary**" means involvement of two or more disciplines or professions in provision of integrated and coordinated services, including evaluation and assessment and development of IFSP.

2.19 "**Natural environments**" means those home and community settings where EI services are provided, similar to those in which children without disabilities participate, to ensure that opportunities to enhance child development are incorporated into daily routines and activities typical for children under age three (3) and their families.

2.20 "**Parent**" means (1) a biological or adoptive parent of a child; (2) a guardian; (3) a person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare); or (4) a surrogate parent who has been assigned in accordance with CFR 303.406

2.21 "**Participating agency**" means any agency or institution, which collects, maintains, or uses personally identifiable information, or from which such information is obtained.

2.22 "**Person**" means any individual, trust or estate, partnership, corporation (including

associations and joint stock companies), limited liability companies, state or political subdivision, or instrumentality of a state.

2.23 "**Qualified personnel**" means personnel who provide Early Intervention services and who have met state approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the person is providing EIS.

2.24 "**Service coordination**" means the activities carried out by a service coordinator to assist and enable an eligible child and family to receive the services authorized under the Rhode Island EI program and contained in the IFSP, including all rights and procedural safeguards.

2.25 "**Service coordinator**" means a person from the profession most immediately relevant to the child's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities), who will be responsible for the implementation of the IFSP and coordination with other agencies and persons.

### 3.0 **Lead Agency**

The Department is the lead agency responsible for early intervention services for infants, toddlers, and their families consistent with Part C of IDEA effective July 1, 1991, and section 23-13-22 of the RI General Laws, as amended.

### 4.0 **Interagency Coordinating Council (ICC)**

#### **Composition of ICC**

4.1 The composition of the Council is specifically determined by criteria set forth in Part C of IDEA. Members of the Council are appointed by the Governor. The Governor shall ensure that the membership of the Council reasonably represents the population of the state.

4.2 The Governor shall designate a member of the Council to serve as the chairperson of the Council. Any member of the Council who is a representative of the Department may not serve as the chairperson.

4.3 Appointments to the Council are for a two-year term. Composition of the Council shall include, but not be limited to:

- a) Chairperson of the ICC has been appointed by the Governor and does not serve as a representative of the lead agency
- b) Parents of infants/toddlers with a disability- not less than 20%
- c) Providers of EI services – not less than 20%
- d) One (1) representative from the state legislature
- e) One (1) College/University faculty member involved in personnel preparation
- f) One (1) representative from the Department of Human Services, which is the agency involved in the provision of and payment for EI services to infants and toddlers with disabilities and their families who has sufficient authority to engage in policy planning and implementation of behalf of the agency. DHS is also the single state agency responsible for the administration and provision of Medicaid services.

- g) One (1) representative from the Department of Education-Office of Special Education, that is responsible for preschool services to children with disabilities who have sufficient authority to engage in policy planning and implementation on behalf of the agency.
- h) One (1) representative from the Department of Business Regulations, which is the agency responsible for the state governance of insurance, especially in the area of health insurance
- i) One (1) representative from a Head Start Agency in the State
- j) One (1) representative from the Department of Children, Youth, and Families, the agency responsible for the licensure and monitoring of child care, foster care, and children's mental health.
- k) One (1) representative from the Office of the Coordinator of Education of Homeless Children and Youth
- l) Other Members selected by the Governor

***Duties and Responsibilities of the ICC***

4.4 The Council shall assume the following responsibilities:

- a) Consistent with the provisions of Part C of IDEA, the Council will meet at least quarterly as stated in the by-laws;
- b) The Council shall announce meetings in sufficient time as to ensure attendance;
- c) Council meetings shall be open and accessible to the general public;
- d) Interpreters for the deaf and other services needed to support participation of all interested parties will be provided as necessary;
- e) No member of ICC may vote on any matter providing direct financial benefit to self or give appearance of conflict, and must conform to the provisions of Chapter 36-14 of the General Laws of Rhode Island, as amended, entitled "Code of Ethics";
- f) Advise and assist the Department in the development and implementation of the policies that constitute the statewide system;
- g) Assist the Department in achieving the full participation, coordination, and cooperation of all appropriate public agencies in the state;
- h) Assist Department in implementation of the statewide system by establishing a process that includes:
  - i) seeking information from service providers, service coordinators, parents, and others about any federal or state or local policies that impede timely service delivery, and
  - ii) taking steps to ensure that policy problems are identified and resolved;
- i) Assist Department in resolution of disputes to the extent deemed appropriate;
- j) Advise and assist Department and state education agency (SEA) in obtaining appropriate services for children ages birth-5 inclusive;

- k) Advise and assist SEA regarding transition of toddlers with disabilities to services under Part B to preschool and other appropriate services;
- l) Advise or assist Department in the preparation of applications and amendments for applications;
- m) Assist Department in the identification of fiscal sources of support for early intervention programs;
- n) Assist in the assignment of financial responsibility to the appropriate agency;
- o) Assist in the promotion of interagency agreements;
- p) Submit an annual report to the Governor and to the Secretary of Education on the status of early intervention programs within the state.

### ***5.0 Certification of Early Intervention Service Providers***

5.1 No person shall provide EI services as an EI service provider without first becoming certified by the Department.

5.2 In order to become certified as an EI service provider, a person shall submit an application along with the required documentation demonstrating compliance with the Act, the Rules and Regulations, and the *Certification Standards*.

5.3 Certification shall be granted for a three-year period. All certifications shall expire on December 31<sup>st</sup> of every third year commencing December 31, 2005.

5.4 The Department shall open the certification process to applicants as it deems appropriate and necessary in order to assure a viable statewide early intervention system that provides quality services to infants and toddlers with disabilities and developmental delay.

### ***General Certification Requirements***

5.5 An EI service provider shall comply with all federal IDEA (Individuals with Disabilities Education Act) requirements.

5.6 All EI service providers shall be capable of providing EI services on a statewide basis.

5.7 All infants and toddlers presumed eligible for EI services shall be promptly and accurately identified, located, and referred to EI and, if found to be eligible, shall have Individualized Family Service Plans (IFSPs) developed that accurately reflect their needs.

5.8 EI service providers shall provide care and services to children in accordance with the prevailing community standard of care.

5.9 It shall be the responsibility of the EI service provider to ensure timely referral for all children whose IFSP designates other services (not EI), when needed. Further, those children who are evaluated by EI providers but are not eligible for EI services shall be referred for appropriate services with family consent. Unmet needs of this population shall be documented and submitted in accordance with Department statistical reporting requirements.

5.10 EI service providers shall assess the child and family's needs in the family's native language or other communication mode of the parent. If this is not feasible, an interpreter shall be provided.

5.11 EI service providers shall ensure that parents are actively involved in the preparation and implementation of the IFSP, including transition planning.

5.12 EI service providers shall ensure that there is an effective, ongoing quality improvement plan in place to evaluate the provision of EI services that is coordinated with the Department's quality assurance efforts. This plan shall be available for the Department's review. Program evaluation results shall be utilized to correct identified deficiencies and to meet identified needs of children and parents.

5.13 EI service providers shall utilize evaluation and assessment procedures that are responsive to the unique demographic, cultural, racial, and ethnic characteristics of the families served.

5.14 Appropriate EI services shall:

- be selected in collaboration with parents;
- be provided under public supervision;
- be provided by qualified personnel;
- be provided in conformity with an Individualized Family Service Plan (IFSP);
- be provided at no cost unless state law requires a system of payments;
- be provided in accordance with state standards;
- be provided in natural environments to the maximum extent appropriate to the child's needs;
- enhance both the development of the child, as well as the family's capacity to meet the child's needs.

#### ***Certification Requirements Related to Organizational Capabilities***

5.15 EI service providers shall have written memoranda of understanding with community agencies where children are receiving EI services.

5.16 EI service providers shall have not-for-profit status.

5.17 EI service providers shall provide services in accordance with the Department's *Certification Standards for Early Intervention Programs*.

5.18 EI service providers shall maintain appropriate and necessary staff to ensure timely fiscal management that maximizes collection of funds from available sources (e.g., Medicaid, private insurers).

5.19 Fees shall not be charged to families for the provision of child find services, evaluation and assessment, IFSP development, review and evaluation, service coordination, and implementation of procedural safeguards.

5.20 Under no circumstances shall EI services be withheld based upon a family's financial status or inability to pay for services.

5.21 No services that a child is entitled to receive shall be delayed or denied due to disputes between agencies regarding financial or other responsibilities.

5.22 EI fiscal services shall adhere to recognized, standard accounting practices.

5.23 An annual certified audit, as prescribed by the Department, shall be maintained on file by the EI service provider for a period of no less than three (3) years. A copy of said annual audit shall be forwarded to the Department upon request.

5.24 EI service providers shall maintain management information systems, compatible with the Department's, to ensure timely billing, data reporting, and quality improvement activities.

5.25 Each EI service provider shall report to the Department statistical data on its operations and services. Such reports shall be made at such intervals and by such dates as determined by the Department.

#### **6.0 *Definition of the Eligible Population***

6.1 Children eligible for early intervention services shall include all infants and toddlers who have received a multidisciplinary team evaluation consistent with procedures described in Section 9.0 and who meet the criteria specified in section 6.0 or are eligible due to a designated single established condition.

6.2 Eligible children include those with:

##### **6.2.1 Children with a Single Established Condition**

*Criteria:* The child has a physical or mental condition known to impact development, including, but not limited to, diagnosed chromosomal, neurological, metabolic disorders, or hearing impairments and visual impairments not corrected by medical intervention or prosthesis. Evidence of diagnosis must be in the child's record.

##### **6.2.2 Children with established developmental delays.**

*Criteria:* The child exhibits a delay in one or more areas of development (that is, 2 standard deviations below the mean in one area of development, or 1.5 standard deviations below mean in two or more areas of development, or if using developmental age or age equivalents, a delay greater than or equal to 33% in one area or 25% in two or more areas of development.)

##### **6.2.3 Children with multiple established conditions.**

*Criteria:* The identification of any one (1) child characteristic and three (3) additional child or family circumstances, that singularly or collectively increase the probability of later atypical development and whose current level of functioning is compromised as a result of a combination of these characteristics. Evidence of these criteria should be documented in the child's record along with appropriate goals and treatment strategies as determined by the family and the IFSP team.

6.3 Developmental delay refers to significant delay in the developmental areas of cognition, communication development, and physical development including vision and hearing, social or emotional development, or adaptive behavior.

#### **7.0 *Central Directory of Services***

The Department shall oversee a directory of local, regional, and statewide resources for infants, toddlers, and their families, which shall include:

- a) Information on all health care, education, mental health, child care, developmental, financial, and other social service programs which are available for young children and families;
- b) Information on research and demonstration projects in the state;
- c) Professionals and other groups providing assistance to children and families;
- d) Public and private early intervention services; and

e) Public and private resources and experts available to providers or families. This directory shall be updated at least annually and be accessible to the general public and be available in places and in a manner that ensures accessibility by persons with disabilities.

### ***8.0 Comprehensive Child Find System***

Child Find efforts shall be coordinated by the Department with the advice and assistance of the ICC with all state agencies and relevant programs (e.g., Department of Education, Maternal and Child Health, Medicaid EPSDT, Developmental Disabilities Act, Head Start and Supplemental Security Income Program). Comprehensive Child Find including three methods: 1)universal screening, 2)direct referrals, and 3)public awareness, shall be implemented concurrently on a statewide basis to ensure that all infants and toddlers in the state who are eligible for services are identified, located, and evaluated.

#### ***Universal Screening***

8.1 Universal screening shall mean that every child born in Rhode Island shall be screened at birth for risk factors related to developmental delay, or adverse developmental consequences. Follow-up screening shall occur at periodic intervals between birth and through age two (2). This initial screening may occur in the hospital and will continue via other health care providers in the community.

8.2 In-home screening, for all those identified as having risk factors in Section 8.1, is a comprehensive process that is intended to identify children in need of additional services. Children who are determined to have probable eligibility for EIS may be referred to an EI service provider.

#### ***Direct Referrals***

8.3 All early intervention service providers certified by the Department in accordance with sections 5.0 and 10.0, shall implement a standard referral process which permits families and community-based agencies to refer infants and toddlers directly to programs for screening, evaluation and assessment to determine eligibility for EIS.

8.4 Referral will be made by primary referral services, (i.e. hospitals, physicians, parents, child care centers, LEAs, public health facilities, other social service agencies and other health care providers) within two (2) working days after the child is identified.

8.5 The standard referral process must include:

- a) an intake form which minimally records the referral source, date and reason(s) for referral, primary health care provider, services currently received, demographic information for the child and family, and final disposition of the referral;
- b) procedures to ensure that eligibility determination for all referrals shall be made and the initial IFSP meeting held within forty-five (45) days of referral;
- c) procedures to ensure that all referral sources and families are informed, in writing, of the disposition of the referral, and any activities (with timelines) which will be instituted on behalf of the child and family with written parental consent;
- d) procedures to ensure that all ineligible children and families shall be informed of alternative community services and supports which coincide with identified needs.

### ***Public Awareness***

8.6 Public awareness is an ongoing, systematic approach to communication with the general population, health and human service professionals, and parents that focuses on the early identification of children who are eligible to receive EIS.

### ***9.0 Evaluation and Assessment Procedures***

9.1 The purposes of the evaluation and assessment process include not only eligibility determination, but also gathering information for planning purposes and answering a family's questions regarding their child's development.

9.2 Pre-assessment planning should include strategies to answer these questions (methods, tools, and environments) as well as to identify who should participate in the evaluation and assessment. For each initial team evaluation and assessment, at least two members of a multidisciplinary team and a family member must be present (not necessarily simultaneously) and participate actively in the process. Team members are chosen based on the areas of developmental concern and family questions.

9.3 When a child is referred to EI and eligibility is already established (e.g., a single established condition), an evaluation for eligibility is not required, but an assessment of functional abilities and needs is required in order to plan for outcomes, supports, and services. For children whose eligibility is to be established (e.g., developmental delay), an eligibility evaluation *and* a functional assessment are required.

9.4 DHS ensures that evaluations and assessments are implemented in collaboration with other state agencies where relevant. Comprehensive evaluations including child and family assessment, if the voluntary consent of the family has been secured, are conducted in a timely manner.

9.5 For each initial team assessment at least two members of the diagnostic team and a family member must participate fully and actively in the process, as appropriate. The service coordinator, who coordinates the evaluation and assessment process, assumes responsibility for the following activities:

- Serving as the single point of contact in assisting parents to obtain required services and assistance
- Assisting parents in gaining access to all services identified in the IFSP
- Coordinating the provision of services both within and across agencies
- Facilitating the timely delivery of services
- Coordinating the performance of assessments
- Facilitating the development, review, and appropriate modification of the IFSP
- Assisting families in identifying available service providers external to EI Providers
- Coordinating with medical and health care providers
- Facilitating the development of appropriate transition plans

9.6 Qualified multidisciplinary team members, trained to use appropriate methods and procedures, conduct evaluations and assessments. The evaluation and assessment includes a review of medical history and the use of two or more measures, including



norm-referenced, criterion-referenced, parent report, and/or direct observational measures.

9.7 Measures used must provide information about the child's level of functioning in each of the following areas: cognition, physical development, including vision and hearing; communication; social and emotional development and adaptive development. *Emphasis must be placed on assessing and describing the child's participation in family routines and everyday activities, and not merely his/her 'testing performance'.*

9.8 The outcomes of the assessment process shall be the identification of the child's and family's unique strengths and needs as well as the identification of appropriate early intervention services to meet such needs.

9.9 Any person who has reasonable cause to know or suspect that any child has been abused or neglected shall report such information to the proper authorities at the state Department of Children, Youth and Families, in accordance with the requirements of Chapter 40-11 of the Rhode Island General Laws, as amended.

9.10 With the voluntary consent of the parent, the assessment process, shall also include:

- a) Specification of expressed family concerns, resources and priorities, related to enhancing the child's development, and
- b) Assessing all supports and linkages with other agencies to enhance the family's ability to provide for the child.

9.11 This information should be collected only if it serves a specific decision making function. Parents and the service coordinator shall jointly determine the method(s) for gathering this information.

9.12 Non-discriminatory Procedures: Each early intervention provider must ensure that the following standards of evidence and nondiscriminatory practice are met:

- Tests, assessments, and other evaluation procedures are administered in the native language of the child and parent or other mode of communication, unless not feasible
- Any evaluation or assessment procedure is selected and administered so as not to be racially or culturally discriminatory
- Evaluation and assessment procedures are consistent with the unique demographic, cultural, racial, and ethnic characteristics of the population serviced.
- No single procedure is used as the sole criterion for determining a child's eligibility for services;
- Evaluation/assessment team members use informed clinical opinion to interpret all evaluation data.
- Qualified personnel conduct evaluations and assessments.

### ***Timelines***

9.13 All initial evaluation and assessment activities shall be completed within forty-five (45) days of referral by a primary referral source (e.g. hospitals, physicians, parents, day care programs, local educational agencies, public health facilities, other social service agencies, and other health care providers).

9.14 A meeting to develop the initial IFSP will be conducted within the forty-five (45) day time limit.

9.15 In exceptional circumstances wherein multidisciplinary team assessments cannot be

completed within this forty-five (45) day timeframe, all children and families shall receive a comprehensive in-home screening for purposes of potential eligibility determination.

9.16 For children who are clearly eligible for services, but exceptional circumstances make it impossible to complete the initial assessment within forty-five (45) days, the early intervention provider will document the circumstances which make an extension necessary.

9.17 Interim IFSP's may be developed if EIS are to begin before the evaluation and assessment are completed, with parents' informed consent. The interim IFSP must include the name of the service coordinator and the services immediately needed. In these cases, the initial evaluations and assessments must still be completed within forty-five (45) days.

#### **10.0 *Individualized Family Service Plan (IFSP)***

10.1 The State of Rhode Island assures that each child and family will receive an eligibility evaluation and/or assessment, IFSP development and implementation, service coordination services and procedural safeguards. For each child evaluated for the first time and determined eligible for EI services, an initial IFSP meeting is conducted and an IFSP prepared no later than forty-five days after referral.

10.2 The family and appropriate qualified personnel providing EI services must develop the IFSP jointly. The IFSP is based on the multidisciplinary evaluation and/or assessment of the child and family and includes services, based on scientific research to the extent practicable, necessary to enhance the development of the child and the capacity of the family to meet the needs of the child.

#### **10.3 Content of an IFSP**

All IFSPs must be completed on the most recent IFSP form issued by the lead agency. This document must be completed in its entirety for each initial IFSP. It should be noted that the lead agency believes that the process of completing the IFSP is as important as the written product. The expected process is that outcomes are written together with the families and other caregivers rather than being written by professionals and given to parents for review and approval. The written IFSP should be as unique as is the family who participated in its development.

Rhode Island's standardized IFSP contains the following essential requirements:

**Child Status:** Describes a child's current level of functioning within the areas of physical development (including vision and hearing), cognition, communication development, emotional or social development, and adaptive development. Present levels of development will be based upon professionally accepted objective criteria as well as informed clinical opinion.

**Family Information:** With the concurrence of the family, the IFSP will include a statement of family resources, priorities, and concerns, related to enhancing the development of the child.

**Goals/Outcomes:** A statement of measurable results and outcomes expected to be achieved for the child and family, including pre-literacy and language skills as developmentally appropriate for the child; and the criteria, procedures, and timelines used to evaluate such outcomes, including the degree to which progress toward achievement is being made, and if modifications of outcomes or services are necessary.

**Array of Services:** A statement of the specific, individualized EI services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the child and family. Such statements must include the frequency, intensity, location, method of delivery of services, and payment arrangements, if any. Also, they must include the natural environments in which the service shall appropriately be provided or a justification of the extent, if any, to which the services will not be provided in a natural environment.

**Frequency and intensity:** The number of days/sessions a service is provided and the length of time the service is provided during each session.

**Method:** How a service is provided (consult, group, or individual).

**Location:** Where a service is provided (home, center, hospital, etc.); the actual place or places.

**Pay Arrangements:** The IFSP will incorporate information regarding payment for services, when appropriate.

**Other Services:** A statement of medical and other services necessary to the child but not required under Part C, and the funding sources to be used in paying for those services or the steps to be taken to secure those services through public or private resources. This does not apply to routine medical services, e.g. immunizations and well baby care, unless those services are needed and not otherwise available.

**Dates and Duration of Services:** Projected dates for the initiation, as soon as possible after the IFSP meeting, and the anticipated duration of all services listed.

**Service Coordinator:** The name of the service coordinator from a profession most immediately relevant to the child's or family's needs (or otherwise qualified to carry out all applicable responsibilities) who will be responsible for implementing the IFSP and coordinating with other agencies and persons. The provider may assign the same service coordinator to be responsible for implementing the IFSP who was appointed when the child was initially referred for evaluation, or may appoint a new service coordinator. As used above, the term "profession" includes "service coordination."

**Transition:** As detailed in Section 12.0, the specification of activities that will occur to support the smooth and effective transfer of children from EI to other environments at 3 years of age.

### ***11.0 Development, Review, and Evaluation of the IFSP***

11.1 Each IFSP meeting shall minimally include the following participants:

- the parent or parents of the child;
- other family members, as requested by the parent;
- other persons, as requested by the parent;
- an advocate or person outside of the family as requested by the parent;
- service coordinator;
- people who are directly involved in conducting evaluations or assessments and providing services.

If any persons listed above are unable to attend the meeting, arrangements are made for other methods of participation (e.g., telephone calls, introduction of pertinent records available, knowledgeable authorized representatives present, etc.).

11.2 Meetings must be held with sufficient written notice, at least seven (7) days prior to meeting and in settings and at times convenient to families. They must be conducted in the native language of the family or other mode of communication used by the family, unless not feasible. If not feasible, an interpreter shall be provided.

11.3 In instances where services are needed immediately, an interim IFSP may be initiated for eligible children prior to the completion of the assessment process, provided:

- written consent of parent is obtained;
- an interim IFSP is developed that includes the name of the service coordinator who will be responsible for implementation of the interim IFSP;
- the specific early intervention services that have been determined to be needed immediately by the child and child's family are identified;
- the projected date of completion of the assessment process determined and agreed to by the parent(s);
- documentation of the exceptional circumstances requiring the extension of timelines, if necessary.

### ***Progress Review***

11.4 Each IFSP must be formally reviewed every six (6) months, or more frequently if conditions warrant, or if a family requests such a review. Participants in this progress review shall minimally include the parent, service coordinator, and others as requested by the parent. The purpose of this meeting is to review the IFSP and to update or develop goals and determine progress toward the desired outcomes and whether or not modification to the IFSP is needed.

### ***Annual IFSP Meeting***

11.5 The annual IFSP meeting to evaluate the IFSP shall be consistent with results and findings derived from the ongoing multidisciplinary team assessment and progress toward goals. Participants in this meeting shall include those represented in the initial IFSP meeting.

### ***12.0 Transition of Children***

12.1 All programs shall include a description of policies and procedures to ensure a smooth transition of children from Early Intervention into other community services and supports as outlined in the child's transition plan.

12.2 A transition team shall convene to begin individual transition planning not more than nine (9) months and at least ninety (90) days prior to the child turning three (3). The EI service coordinator shall be responsible for coordinating this meeting. The team shall include the parents, the service coordinator, the LEA representative and a representative from appropriate community services and support agencies, and other individuals as requested by the parents. The team shall develop a written plan outlining the activities to take place during the transition period, the persons responsible, and the timelines. The plan shall become part of the child's IFSP and shall reflect the individual needs of the child and the participation of the family.

12.3 All children exiting EI shall have a transition-planning meeting. As part of the transition plan, if a child is determined to be ineligible for special education services, the transition team shall refer the family and child to appropriate community resources.

### ***13.0 Comprehensive System of Personnel Development***

13.1 All professional qualified personnel in early intervention programs, whether employed on a full-time or part-time basis, or under a contractual agreement, for who certificates or licenses are required by state law and regulation, shall hold such certificates or licenses.

13.2 Copies of all current licenses, certificates, or registrations required by law or regulation shall be maintained on file by the EI service provider for all professional qualified personnel.

13.3 Each EI service provider shall promptly notify the Department of any staffing changes that would materially affect the provision of EI services.

### ***Personnel Standards***

13.4 The EI service provider shall develop written policies and procedures that will ensure those personnel providing early intervention services to eligible children and their families are appropriately prepared and trained. Such written policies shall include the provision that staff shall attend all training for professional development activities mandated by the Department.

13.5 EI service providers shall ensure appropriate supervision of qualified personnel. This shall include the employment of a full-time clinical supervisor who shall participate in training or supervision as required by the Department.

### ***Service Coordinator***

13.6 Each EI-eligible child and the child's family shall be provided with a service coordinator who is responsible for coordinating all services across agency lines and serving as the single point of contact to obtain the services and assistance that parents require.

13.7 There shall be a sufficient number of service coordinators available to plan and coordinate all EI services in natural environments in a timely manner including the multidisciplinary team evaluation and/or assessment, the initiation of an IFSP meeting within forty-five (45) days of referral, and all IFSP reviews.

13.8 Service coordinators shall meet the required standards of section 2.25 herein and shall be responsible for:

- coordination of multidisciplinary evaluations and assessments;

- participation in development, review and evaluation of integrated Individualized Family Service Plan (IFSP) goals and outcomes;
- assisting families in identifying available service providers;
- coordinating and monitoring the delivery of services;
- informing families of advocacy services;
- coordinating with medical and health providers;
- facilitating the development of a transition plan to preschool services, when appropriate; or making referrals to appropriate community services and supports;
- facilitating the timely delivery of available services;
- continuously seeking the appropriate services and situations necessary to benefit the development of each child being served for the duration of the child's eligibility.

13.9 Service coordinators shall serve as the single point of contact in helping parents to obtain the services and assistance they need. Service coordinators shall be persons who have demonstrated knowledge and understanding about eligible infants and toddlers, Part C of the Individual with Disabilities Education Act (IDEA) and the regulations, the nature and scope of services available under the state's Early Intervention Program, the system of payments for those services, and other pertinent information.

### ***Training and Professional Development***

13.10 These regulations acknowledge that providing quality EI services to infants and toddlers requires competent professionals who not only have acquired appropriate certificates and licenses within their academic disciplines, but also paraprofessionals. Both must demonstrate a strong commitment to continuing education and professional development. As such, both pre-service and in-service interdisciplinary training initiatives are essential to an effective EI system.

13.11 All training activities provided to a variety of personnel, including public and private providers, primary referral services, paraprofessionals, and service coordinators are conducted on an inter-disciplinary basis, to the extent appropriate, and includes information which relates to:

- Understanding the basic components of the EI system
- Meeting interrelated psychosocial, health, developmental, and educational needs of eligible children
- Assisting families to learn how to enhance the development of their children, and to participate fully in the development and implementation of IFSPs

### **13.12 CONTINUING EDUCATION REQUIREMENTS:**

**Early Interventionist:** Minimum of 12 hours per year of in-service training with a focus on working with young children with disabilities and their families including the completion of the Introduction to EI course within 6 months of date of employment. Provider support for Early Interventionists to obtain their Bachelor's Degree is strongly encouraged.

**Service Coordinator I:** Minimum of 12 hours per year of in-service training with a focus on working with young children with disabilities and their families, including the completion of the Introduction to EI course within six months of the date of employment.

**Service Coordinator II:** A minimum of twelve (12) hours per year of in-service (as needed to maintain certificate, license, or registration in the relevant disciplines); and training specializing in working with young children with disabilities and their families. Must complete the Introduction to EI course within 6 months of date of employment.

**Clinical Supervisor:** A minimum of eight (8) hours per year within the following areas: (1) supervisory skill building, (2) quality improvement, (3) ethical and risk management issues, (4) collaborative problem solving; and as needed to maintain certificate, license or registration in relevant disciplines; and completion of the Introduction to EI course within 6 months of date of employment.

#### ***14.0 Procedural Safeguards***

14.1 The intent of this section of the regulations is to ensure that:

- (1) parents are fully informed of all recommendations in the parent's native language or other mode of communication. If it is not feasible to provide information in the parent's native language or other mode of communication, an interpreter shall be provided;
- (2) that such recommendations and all direct services cannot be initiated without written parental consent;
- (3) that parents are allowed the opportunity to inspect and review records; and
- (4) that in those instances in which disagreement occurs between EI service provider staff and parents regarding the nature of the assessment process, IFSP process, or direct service provision, impartial mediation and hearing procedures shall be available for resolving such issues.

14.2 DHS has adopted policies and procedures in order to ensure the protection of any personally identifiable information collected, used, or maintained, including right of parents or guardians to written notice of, and written consent to the exchange of this information which is consistent with federal and state law.

#### ***Parent Consent and Notice***

14.3 Consent means that:

- the parent(s) have been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication. If it is not feasible to provide information in the parent's native language or other mode of communication, an interpreter or translation shall be provided.
- the parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom;
- the parent understands that the granting of consent is voluntary and may be revoked at any time;

- the parent has the right to determine whether the child or other family members will accept or decline an EIS under this part in accordance with state law, without jeopardizing other early intervention services under this part;
- The definition of "native language" (for persons with limited English proficiency) means language/mode of communication normally used by parents.

### ***Prior Notice***

14.4 a) All communication must be in a language understandable to the parent(s), and/or must be conveyed in the parent's native language or normal mode of communication. Service providers shall be responsible for assuring availability of qualified translators and interpreters.

b) The notice must be provided within seven (7) days before the agency proposes or refuses to initiate or change the identification, evaluation, or placement of a child or the provision of early intervention services.

c) If the parent is deaf or blind, or has no written language, the notice must be in the language or mode of communication normally used by the parent. An interpreter may be used.

d) This notice must be in sufficient detail to inform the parent(s) about the identification, evaluation, or activity being proposed or refused to provide, modify, or discontinue EI services. The notice must include the reasons for the actions proposed and must include all procedural safeguards.

e) The notice must be written in language understandable to the parent(s), and/or must be conveyed in the parent's native language or normal mode of communication unless not feasible. If not feasible, an interpreter shall be used.

### ***Parent Consent***

14.5 Written informed parental consent must be obtained before:

- conducting an evaluation and assessment of a child;
- initiating or changing the provision of early intervention services.

If consent is not given by the parent, the early intervention program shall make reasonable efforts to ensure that the parent:

- is fully aware of the nature of the assessment or services that would be available;
- understands that the child will not be able to receive the assessment or services unless consent is given.

### ***Parent Rights to Decline Service***

14.6 Parents of an eligible child may determine whether they, their child or other family members will accept or decline any EI services under Part C in accordance with State Law. Parents may decline such service after first accepting it without jeopardizing other EI services

### ***Surrogate Parents***

14.7 The Department shall ensure that the rights of eligible children are protected if:

- no parent can be identified;
- the early intervention provider, after reasonable efforts, cannot discover the whereabouts of a parent;



- the child is a ward of the State.

14.8 The Department shall be responsible for determining the need for a surrogate and the assignment of an individual to act as a surrogate for the child in accordance with existing state law. Such policies shall ensure that a person selected as a surrogate parent:

- has no interest that conflicts with the interests of the child he or she represents;
- has knowledge and skills that ensure adequate representation of the child.
- is appointed within 30 days after a determination that the child needs a surrogate parent.

14.9 A person assigned as a surrogate parent may not be an employee of any state agency or be involved or be an employee of someone involved in the provision of early intervention or other services to the child or to any family member of the child.

14.10 A surrogate may represent a child in all matters related to:

- the evaluation and assessment of the child;
- development and implementation of the child's IFSP, including annual evaluations and periodic reviews;
- procedural safeguards;
- the ongoing provision of early intervention services to the child;
- any other matters contained in the *Certification Standards*.

14.11 A surrogate parent may be removed for any violation(s) of the surrogate parent agreement.

#### ***Opportunity to Examine Records***

14.12 The parent(s) of eligible children must be afforded the opportunity to inspect and review their child's records, including information relating to evaluation and assessment, eligibility determination, development and implementation of IFSPs, and individual complaints dealing with the child. Parents must be informed in their native language of the nature, type, and purpose of information contained within their child's records, and must receive written notice of a program's policies and procedures regarding information collection, storage, disclosure, and destruction.

#### ***Access Rights***

14.13 Each early intervention program shall permit parents to inspect their record. Requests for record reviews by parents shall be complied with promptly, and in no case shall exceed forty-five (45) days. Record reviews must be facilitated, upon request, prior to IFSP meetings, hearings related to the child's identification, evaluation, or placement, or at any time within the identification, evaluation, and IFSP planning process. Parents or their designated representative may also request copies of records; however, programs may not charge for retrieving or copying such records. Parents or their representatives have the right to a response to reasonable requests for explanations and interpretations of records. The agency will presume the parent has the authority to inspect and review his/her child's records unless the agency has been advised that the parent does not have that authority under state law.

#### ***Record of Access***

14.14 All participating agencies which maintain confidential or personally identifiable information on children and their families must keep a record of parties obtaining access

to those records (except access by the child's parents and authorized employees of the agency), including: (1) the name of the party requesting access; (2) the date of access; and (3) the purpose for the access.

#### ***Fees***

14.15 Fees for copies may be charged if the fees do not prevent parents from exercising their right to inspect or review records. Providers may not charge for searching and/or retrieving such records

#### ***Records On More Than One Child***

14.16 If any record includes information on more than one child, parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

#### ***List of Types and Locations of Information***

14.17 Agencies must provide parents, upon request, a list of the types and location of records collected, maintained, or used by the agency.

#### ***Amendment of Record at Parent's Request***

14.18 In those instances in which the parent believes that the record is inaccurate, misleading, or violates the privacy or rights of the child or family, the parent may request the agency to amend the information. Such amendments, if agreed to by the agency, must occur promptly. The agency may, within a reasonable time, decide whether to amend the record. If an agency refuses to amend the record, the parent shall be so notified in writing and shall be informed of their right to an impartial hearing. In either case the agency must note in the record the parents expressed disagreement with the information.

#### ***Right to a Hearing Regarding Information Contained Within Records***

14.19 Parents shall be entitled to an impartial hearing if they believe that the contents of their child's record is inaccurate, misleading, or violates the privacy or rights of the child or family. Such impartial hearings shall be subject to the same procedures as specified in Section 14.20 of these regulations. If the impartial hearing finds that the record is inaccurate, misleading, or in violation, the agency must amend the record and so inform the parents of such amendments, in writing, within one (1) week of the decision. If the impartial hearing finds that the record is accurate, the agency must inform the parent of their right to insert a written statement into the record, commenting on information or expressing disagreement with the decision of the agency. Such statements must be maintained as part of the child's record as long as the child's record or contested portion is maintained by the agency, and must be disclosed if the record is reviewed by any party.

#### ***Hearing Procedures***

14.20 Any hearing held under this part must be conducted under the procedures in 34 CFR 99, the Family Education Rights and Privacy Act (FERPA).

14.21 Mediation is a form of conflict resolution in which a "mediator" is called upon to attempt to reach a resolution of differences of opinion between parent (s)

and EI services providers. Mediation is both an informal and flexible process designed to reach agreement between parties. Either party to a disagreement may submit a written request to the DHS for mediation.

14.22 DHS has established and implemented procedures that ensure that the mediation process is:

- Voluntary on the part of the parties
- Not used to deny or delay a parent's right to a due process hearing or to deny any other parental rights afforded under Part C
- Conducted by a qualified and impartial mediator who is trained in effective mediation techniques

14.23 The state maintains a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of EI services. The state bears the cost of the mediation process. Each session in the mediation process is scheduled in a timely manner and is held in a location that is convenient to the parties to the dispute.

14.24 An agreement reached by the parties to the dispute in the mediation process is set forth in a written mediation agreement. Discussions that occur during the mediation process are confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings and the parties to the mediation process are required to sign a confidentiality pledge prior to the commencement of such process.

### ***Consent***

14.25 Written parental consent must be obtained before personally identifiable information is disclosed to any individual not employed or placed by the Department, the Early Intervention service provider, or to any other agency, or for any other purpose than to comply with these regulations. The agency may not release information from the records to participating agencies without the consent of the parent unless authorized to do so under FERPA. In the event that the child's multidisciplinary team believes failure to release requested information would be harmful to the health or welfare of the child, the agency may request a due process hearing to determine if the information may be released without parental consent.

### ***Safeguards***

14.26 All early intervention programs are responsible to protect the confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction stages. The administrator of the early intervention provider site shall assume responsibility for ensuring that confidentiality of personally identifiable information is maintained. Each provider must maintain a list of individuals who have access to personally identifiable information, and must provide instruction to these individuals regarding all sections of these regulations pertaining to maintenance of confidentiality.

### ***Destruction of Information***

14.27 Personally identifiable information (excluding permanent record information such as name, address, phone number, early intervention program and services) must be destroyed if the parent so requests. The agency must inform the parent when personally identifiable information is no longer needed or maintained by the agency.

### ***Enforcement***

14.28 Each service provider, agency, institution, and organization that provides services under Part C shall participate in a self-review process, as well as monitoring and on-site reviews by the Department to ensure that all policies and procedures, including confidentiality are being followed.

14.29 Sanctions for failure to comply with the Part C requirements identified during the monitoring process and failure to correct identified deficiencies may include the withholding of Part C funds if determined appropriate by the Department.

14.30 If the Department determines that an EI service provider is not in compliance with the Act or the rules and regulations herein, certification status may be denied, revoked or suspended following notice and opportunity for hearing.

### ***Child's Status During the Proceedings***

14.31 During the pendency of any administrative or judicial proceeding regarding EI services unless the early intervention program and parent(s) of the child agree otherwise, the child involved must continue to receive the early intervention services defined in the most recent IFSP signed by both parties. If the complaint pertains to services to be provided under Part B after the child's third (3<sup>rd</sup>) birthday, Part B is responsible for the provision of all services.

### ***15.0 Resolving Complaints***

15.1 Any individual or agency, public or private, may file a written signed complaint to the Department which identifies an area of noncompliance with these regulations, as well as written facts supporting the complaint, by an early intervention service provider. The Department shall be responsible for investigating such complaints and, if necessary, for conducting on-site visitations, giving the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; and reviewing all relevant information to make an independent determination as to whether the public agency is violating a requirement of Part C of the Act or of this Part; and written responses to the complainant shall be issued by the Department within sixty (60) days of receipt of the complaint. Such written correspondence shall include findings which indicate how the complaint was resolved, and the corrective actions, if any, including timelines required by the early intervention program. Extensions of the sixty (60) day timeline may be granted by the Director only if exceptional circumstances exist with regard to the complaint. The family shall be notified if an extension is granted by the Director.

15.2 The Department shall include procedures for effective implementation of the Department's final decision, if needed, including:

- 1) technical assistance activities;
- 2) negotiations; and
- 3) corrective actions to achieve compliance.

15.3 If a written complaint is received that is also the subject of a due process hearing under RI Regulations Part E, 508-529, or contains multiple issues, of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing, until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved within the 60-calendar day time line using the complaint procedures described in paragraphs (a) and (b) of this section. If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties:

The hearing decision is binding; and DHS must inform the complainant to that effect. A complaint alleging a provider agency's failure to implement a due process decision must be resolved by DHS. DHS has in place procedures for resolving complaints that are consistent with the requirements of 303.510 through 303.512.

#### **16.0 Severability**

If any provision of these rules and regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of the rules and regulations are declared to be severable.